IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

WP(C).No. 25906 of 2007(H)

PETITIONER:

JAYASREE,
PROPRIETRIX, JAYASREE CASHEW COMPANY,
POOYAPPALLY, KOTTARAKKARA.

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF LABOUR
& REHABILITATION, GOVERNMENT SECRETARIATE,
TRIVANDRUM.

2. DISTRICT LABOUR OFFICER, KOLLAM.

3. SMT. K.LEELA,
KIZHAKKEVILA VADAKKATHIL, VELIYAM WEST P.O.,
KOTTARAKKARA.

BY GOVOERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.25906 OF 2007

DATED THIS THE 24th DAY OF AUGUST, 2007

JUDGMENT

The petitioner challenges Ext.P2 proceedings of the controlling authority under the Payment of Gratuity Act, 1972 whereby the petitioner was directed to pay gratuity amounting to Rs.36,540/- to the 3rd respondent, who was an employee of the petitioner. The only contention raised before me is that the petitioner was not given an opportunity of being heard by the controlling authority. In Ext.P2 it is specifically stated that the petitioner, who was the opposite party in the G.C., was issued notice but they remained exparte. Ext.P2 order is dated 16.8.05. Nowhere in the writ petition has the petitioner stated that the petitioner has not received any notice from the controlling authority. The petitioner has also not given any plausible explanation for his non appearance before the controlling authority. Further the petitioner himself states in the writ petition that the 3rd respondent was offered terminal benefits which the petitioner has refused to accept. That being so, the liability to pay gratuity also is not disputed. In the writ petition no reasons are also stated why the amount of gratuity computed in Ext.P2 is not payable. Simply because the 3rd respondent has refused to accept the amount offered by the petitioner,gratuity does

not cease to be payable. In any event, the petitioner has got a right to file an appeal against Ext.P2 before the Appellate Authority as provided under the Payment of Gratuity Act itself which the petitioner has not chosen to do. Ext.P2 order is dated 16.8.2005 and it would be unjust to the poor employee to allow the petitioner to re-agitate the matter after 3 years of passing of Ext.P2 order. For all these reasons, I am not inclined to entertain this writ petition forcing the poor employee to go through the process of a drawn out litigation which that employee can ill afford .

Accordingly, the writ petition is dismissed.

S. SIRI JAGAN, JUDGE

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